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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

<b>FILED</b>
DATE: <u>3-4-2011</u>
<u>5:15</u> O'Clock <u>P.M.</u>
<b>JEANNE HICKS, CLERK</b>
BY: <u>Tanya Brogdon</u>
Deputy

DIVISION PRO TEM B

JEANNE HICKS, CLERK

HON. WARREN R. DARROW

BY: R. Hagen/T. Brogdon, Deputy Clerks

CASE NO. V1300CR201080049

DATE: March 4, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA,

Yavapai County Attorney

Sheila Polk/Bill Hughes,

(Via OnBase)

(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,

Thomas K. Kelly,

(Via electronic mail)

(Co-Counsel for Defendant)

(Defendant)

Luis Li/Brad Brian/Truc Do/Miriam Seifter

MUNGER TOLLES & OLSON LLP,

(Via electronic mail)

(Co-Counsel for Defendant, *Pro Hac Vice*)

HEARING ON:  
TRIAL – Day 10

NATURE OF PROCEEDINGS

COURT REPORTER  
Mina Hunt

START TIME: 9:10 a.m.

APPEARANCES:

Sheila Polk, Counsel for State  
Bill Hughes, Co-Counsel for State  
Detective Ross Diskin, Case Agent  
James Arthur Ray, Defendant  
Tom Kelly, Co-Counsel for Defendant  
Luis Li, Co-Counsel for Defendant  
Truc Do, Co-Counsel for Defendant  
Victim Services Representative

The Court, Counsel, Detective Diskin, Defendant, and Victim Services Representative are present. The Jury is not present.

The Court and Counsel will hold a hearing on a witness privacy concern. Oral argument is presented regarding whether audio recording of this portion of the proceeding is allowed under Rule 122. Counsel for the State invokes Section D of the Rule. **The Court requests** that no photographic or other coverage be taken of the witness privacy hearing.

The witness, Laura Tucker, enters the courtroom and is examined unsworn, regarding the request for no coverage during her testimony.

After examination of the witness concludes, the Court advises that audio recording of the proceeding is now permitted.

Counsel present oral argument regarding the request for witness privacy.

The Court **finds** that camera coverage will not have a significant additional affect on privacy because the name will be there, and transcripts of testimony will be available; the Court further **finds** no safety or well-being impact, nor other factors under the Rules, and, therefore,

**IT IS ORDERED** denying the witness's request for no camera coverage during testimony.

The witness leaves the Courtroom. The Court advises that full coverage of the proceeding may now be taken.

Counsel are advised to notify the Court of any pretrial issues so that scheduling can be addressed.

In response to the Court's inquiry, Counsel for State advises the thumb drive and PowerPoint will be submitted next week. Counsel are advised the refund policy issue will not be a bench conference issue. The Court addresses Counsel regarding potential witness questions calling for legal conclusions.

The Court and Counsel address *in Limine* issues regarding witness examination.

~~~Recess~~~

At 10:08 a.m. Court reconvenes, all previously appearing parties and the Jury are present in the Courtroom.

The Court addresses the Jury regarding any admonition concerns and finds there are none.

Laura Anne Tucker is sworn and testifies.

Exhibits 224 and 225 are admitted into evidence pursuant to stipulation of Counsel.

The witness is admonished and excused for the noon recess. The Jury is admonished and excused for the noon recess and instructed to return at 1:15 p.m.

~~~Noon Recess~~~

At 1:19 p.m. Court reconvenes, all previously appearing parties and the Jury are present in the Courtroom.

Laura Anne Tucker resumes testimony.

Exhibits 404, 407, 412 and 736 are offered and admitted into evidence without objection.

Exhibit 520 is admitted into evidence pursuant to stipulation of Counsel.

The Jury is reminded of the admonition and excused for a recess.

~~~Recess~~~

At 3:12 p.m. Court reconvenes, all previously appearing parties and the Jury are present in the Courtroom.

Laura Anne Tucker resumes testimony.

Laura Anne Tucker is reminded of the Rule for the exclusion of witnesses, is excused and exits the Courtroom.

Jennifer Haley having been previously sworn resumes testimony.

The Court and Counsel conduct sidebar discussion outside of the presence of the Jury on the record.

~~~Recess~~~

At 4:06 p.m. Court reconvenes, all previously appearing parties and the Jury are present in the Courtroom.

Jennifer Haley having been previously sworn resumes testimony.

The Court and Counsel conduct sidebar discussion outside of the presence of the Jury on the record.

Exhibits 187, 189 and 253 are admitted into evidence pursuant to stipulation of Counsel.

Jennifer Haley is reminded of the Rule for the exclusion of witnesses, is excused and exits the Courtroom.

The Court addresses Jury concerns.

The Jury is reminded of the admonition, advised to return on March 8, 2011 at 9:15 a.m. and excused for the weekend recess.

The Court addresses questioning of witnesses and hearsay concerns. **The Court requests** Counsel be aware of questions regarding hearsay and personal knowledge.

The Court addresses the excerpt Counsel for State would like to play that has been transcribed. Counsel for State advises they intend to play everything within Defendant's memorandum. Oral argument ensues. Counsel for State requests the Court allow the State to play the excerpt.

The Court and Counsel discuss 403 issues and display of exhibits. **The Court requests** Counsel be mindful of display of exhibits.

Counsel for Defendant requests to submit exhibit 735 for the Court's review before the Court reaches a decision on the issue. The Court deems this appropriate.

Counsel for State agrees upon notification from Counsel for Defendant, a new exhibit can be submitted to include the context Counsel for Defendant is asking for including the entire recording of the event. Counsel for State advises they will redact what the Court requests be redacted. The Court recognizes Counsel for State preserves the record of what Counsel for Defendant would want to present and would need to have this completed by March 7, 2011.

The Court stands adjourned for the day.

**END TIME: 5:15 p.m.**

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)  
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)  
Stone & Magnanini, Co-Counsel Brown Family (e)  
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)  
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)  
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)  
Division PTB (e)  
Victim Services (e)  
Court Administration  
Customer Service Supervisor, Verde